

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

VS.

MARIO GARAFOLA

**FILED**

IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.

★ SEP 30 2005 ★

JUDGMENT INCLUDING  
SENTENCE

NO.: CR-04-732

USM# 71297-053

BROOKLYN OFFICE

Robert Radick  
Assistant United States Attorney

Burt Sulzer  
Court Reporter

Gavin Scotti  
Defendant's Attorney

The defendant Mario Garafola having pled guilty to count 1 of the second superceding information accordingly, the defendant is ADJUDGED guilty of such Count(s), which involve the following offenses:

<u>TITLE AND SECTION</u>	<u>NATURE AND OFFENSE</u>	<u>COUNT NUMBERS</u>
18 U.S.C. 371	Fraud Conspiracy	1SS

The defendant is sentenced as provided in pages 2 through 6 of the Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1988.

       The defendant is advised of his/her right to appeal within ten (10) days.

       The defendant has been found not guilty on count(s) and discharged as to such count(s)

  X   **Open counts are dismissed on the motion of the United States.**

       The mandatory special assessment is included in the portion of Judgment that imposes a fine.

  X   **It is ordered that the defendant shall pay to the United States a special assessment of \$100.00 which shall be due immediately.**

It is further **ORDERED** that the defendant shall notify the United States Attorney for this District within 30 days of any change of residence or mailing address until all fines, restitution, costs and special assessments imposed by this Judgment are fully paid.

August 2, 2005

Date of Imposition of sentence

s/David G. Trager  
**DAVID G. TRAGER, U.S.D.J.**

9/30/05  
Date of signature  
A TRUE COPY ATTEST  
DEPUTY CLERK

DEFENDANT: **Mario Garafola**  
CASE NUMBER: **CR-04-732**

JUDGMENT-PAGE 2 OF 6

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of: **Thirty six (36) months. It is the recommendation of the court that the defendant be placed in FCI Allenwood.**

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this District.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

☒ -12:00 noon, **10/11/2005**.  
☐ As notified by the United States Marshal.  
☐ As notified by the Probation Office.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_ with a certified copy of this Judgment.

\_\_\_\_\_  
United States Marshal

By: \_\_\_\_\_

DEFENDANT: **Mario Garafola**  
CASE NUMBER: **CR-04-732**

JUDGMENT-PAGE 3 OF 6

**SUPERVISED RELEASE**

Upon release from Imprisonment, the defendant shall be on supervised release for a term of: **Three (3) years**

**If the defendant is deported, he may not reenter the United States illegally.**

**The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.**

While on supervised release, the defendant shall not commit another Federal, State, or Local crime and shall comply with the standard conditions that have been adopted by this Court (Seaforth on the following page).

The defendant is prohibited from possessing a firearm.

The defendant shall not illegally possess a controlled substance.

If this Judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

- The defendant shall pay any fines that remain unpaid at the commencement of the term of supervised release.
- The defendant shall comply with the restitution order and provide complete financial disclosure to the Probation Department to verify his compliance.

**DEFENDANT: Mario Garafola**  
**CASE NUMBER: CR-04-732**

**JUDGMENT-PAGE 4 OF 6**

**PROBATION**

The defendant is hereby placed on probation for a term of \_\_\_\_\_

The defendant shall not commit another Federal, State or Local crime.

The defendant shall not unlawfully possess a controlled substance.

For offenses committed on or after September 13, 1998:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

\_\_\_\_ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

  X   The defendant shall not possess a firearm as defined in 18 U.S.C. Sect. 921.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the schedule of payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth in the "Standard Conditions of Supervision" sheet.

The defendant shall comply with the following additional conditions

**STANDARD CONDITIONS OF SUPERVISION**

While the defendant is on probation or supervised release pursuant to this Judgment:

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 8) The defendant shall support his or her dependents and meet other family responsibilities;
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) The defendant shall notify the probation officer within 10 days prior to any change in residence or employment;
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a Physician;
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
- 12) The defendant shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the court;
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Mario Garafola  
CASE NUMBER: CR-04-732

JUDGEMENT 6 OF 6

CRIMINAL MONETARY PENALTIES

<u>COUNT</u>	<u>FINE</u>	<u>RESTITUTION</u>
1	None	\$1,920,591.00

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RESTITUTION

\_\_\_\_ The determination of restitution is deferred in a case brought under Chapters 109A, 110, 110A, and 113A of the Title 18 for offenses committed on or after 9/13/1998, until \_\_\_\_\_. an amended judgment in a Criminal case will be entered after such determination.

X The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

**TOTALS: 1,920,591.00**

Findings for the total amount of losses are required under Chapters 109A, 110, 110A, 113A of the Title 18 for offenses committed on or after September 13, 1998.

**Restitution is to be made payable to the Clerk of Court for the Eastern District of New York at a rate of \$25.00 per quarter while the defendant is in prison and 25% of the defendant's net monthly disposable income after he is released.**

<u>Name of Payee</u>	<u>Restitution Ordered</u>
MTA	\$1,110,000.00
Carpenters & Joiners Union Stewart Grabois, Esq., Fund Administrator 395 Hudson Street New York, NY 10014	\$526,884.00
District Counsel Cement & Concrete Workers Union Fund Administrator 3530 Francis Lewis Blvd. Flushing, New York 11358	\$283,707.00